

# Home and Community-Based Services (HCBS) Rule - Update

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*Infrastructure Committee, SC Disability Employment Coalition*

# What is the HCBS Rule?

- CMS promulgated the HCBS rule on January 16, 2014 with an effective date of March 17, 2014.
  - All states must be in compliance with the HCBS rule by March 17, 2022\*
- Two Areas of Focus:
  - **Person-Centered Service Planning**
    - Process
    - Plan Requirements
    - Review
  - **Home and Community Based Settings Requirements**
    - Settings characteristics
    - Heightened Scrutiny

***Independent•Integrated•Individual***

# Person-centered planning



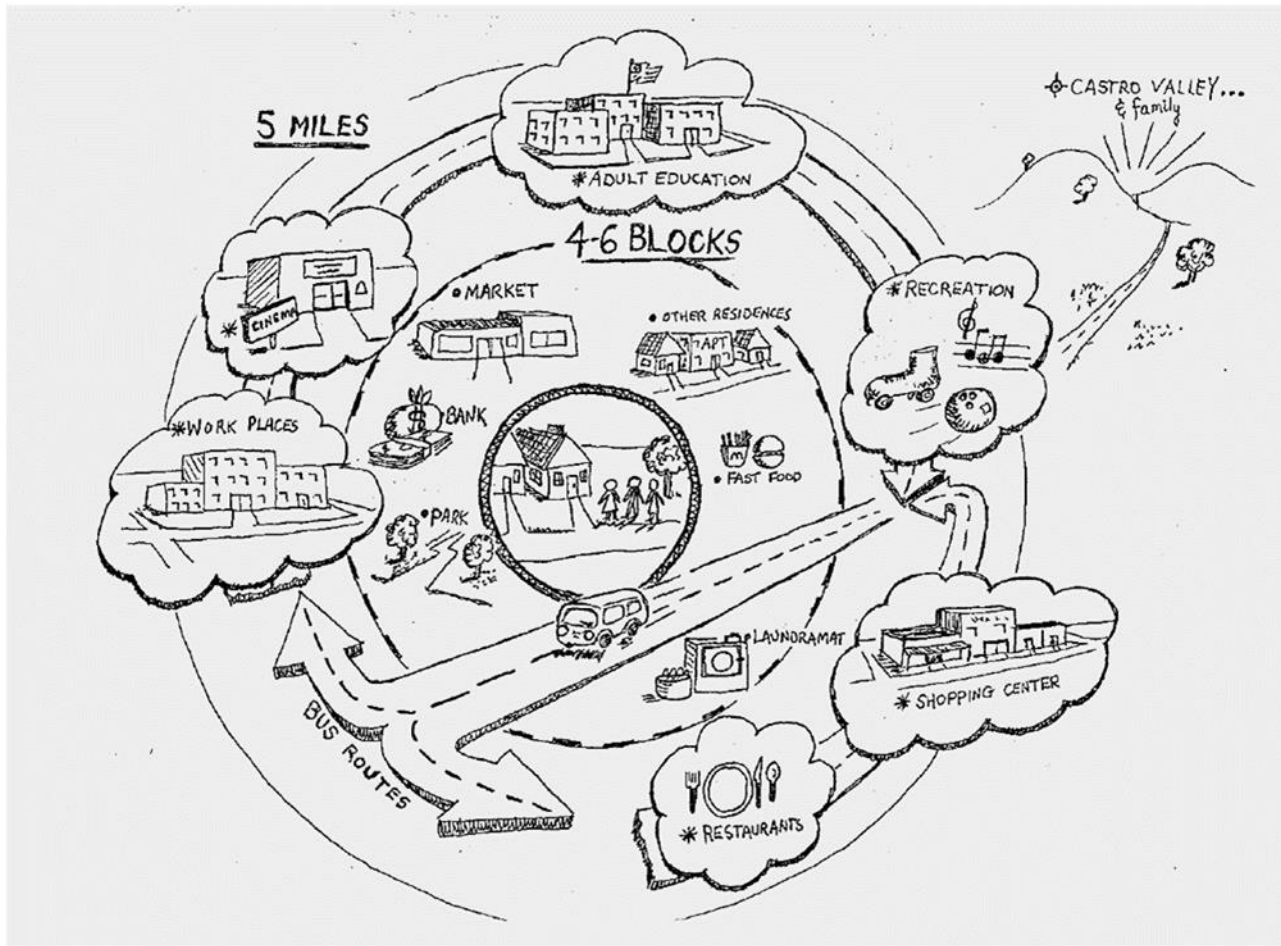
# Conflict Free Case Management

Any structure developed must adhere to the following tenet\*:

**“Providers of HCBS for the individual, or those who have an interest in or are employed by a provider of HCBS for the individual *must not* provide case management or develop the person-centered service plan[...]**”

\*42 CFR 441.301(c)(1)(vi)

# HCBS Settings Requirements



**Graphic Source:** O'Brien, C.L. and O'Brien, J. (2000). *The Origins of Person Centered Planning*. Retrieved from:  
[http://www.nasddds.org/uploads/documents/The\\_Origins\\_of\\_Person\\_Centered\\_Planning\\_Obrien\\_and\\_Obrien.pdf](http://www.nasddds.org/uploads/documents/The_Origins_of_Person_Centered_Planning_Obrien_and_Obrien.pdf)



# 42 CFR 441.301(c)(v)

## Settings that are **Not** Home and Community-Based

- i. A nursing facility;
- ii. An institution for mental diseases (IMD);
- iii. An intermediate care facility for individuals with intellectual disabilities (ICF/IID)
- iv. A hospital; or
- v. Any other locations that have qualities of an institutional setting as determined by the secretary.

# Qualities of Institutions

- Any other locations that have qualities of an institutional setting as determined by the secretary.
  - Any setting that is located in a building that provides inpatient institutional treatment
  - In a building on the grounds of, or immediately adjacent to, a public institution
  - **Any other setting that has the effect of isolating individuals from the broader community**

The question is not how can the system promote community integration; the question is *how is the system keeping someone from being integrated in the community?*

# Where are the barriers?

- The setting is integrated in and supports full access to the greater community
  - Includes opportunities to seek employment and work in competitive integrated settings
  - Engage in community life
  - Control personal resources
  - Receive services in the community
- The setting is selected by the individual from options which include non-disability specific settings

# Where are the barriers?

- Ensures an individual's rights of privacy, dignity, respect, and freedom from coercion and restraint
- Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices
- Facilitates individual choice regarding services and supports, and who provides them

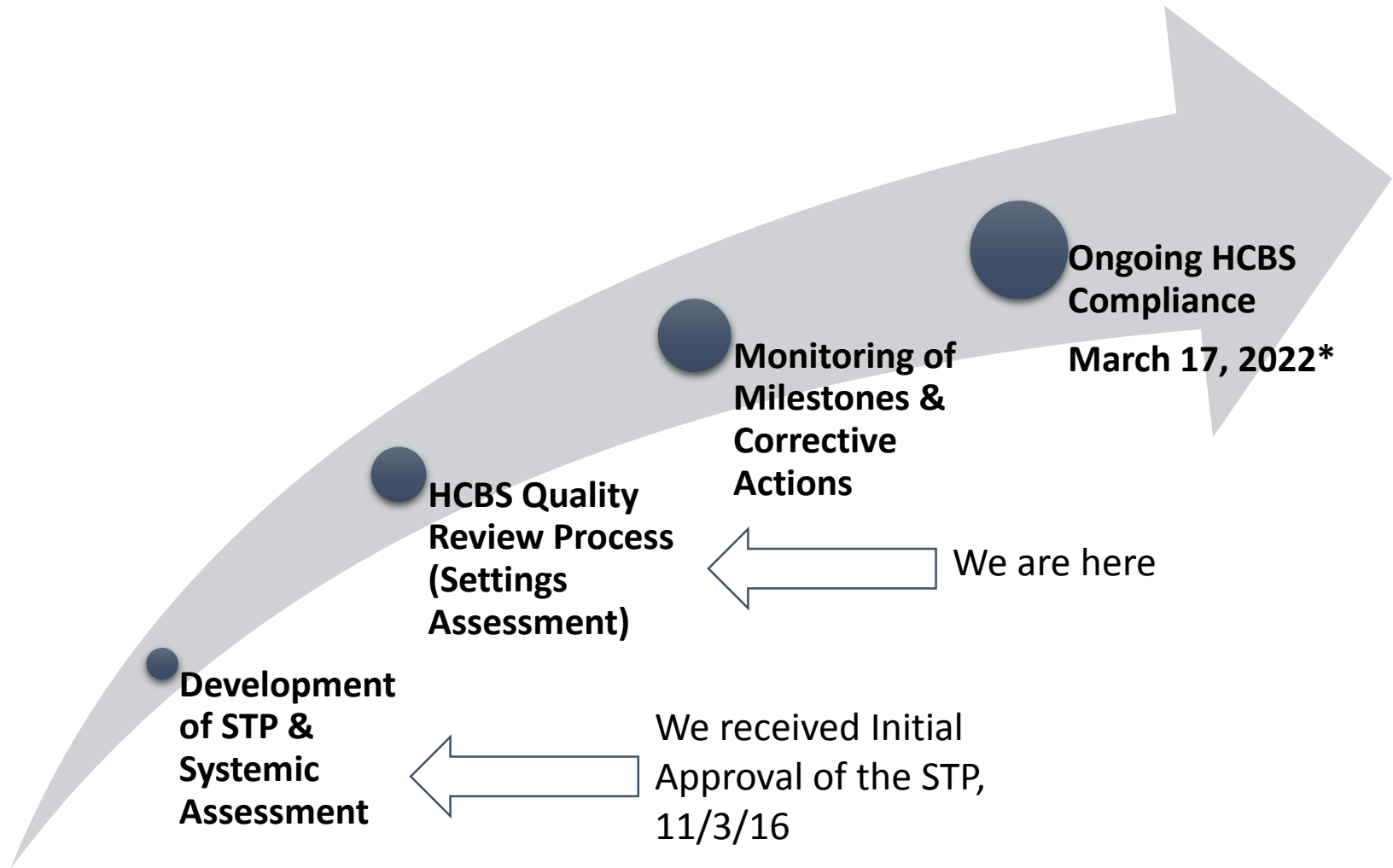
# What is required for residential settings?

- Person must have a lease
- Person has privacy in their sleeping/living unit
  - Lockable by the person
  - Choice of roommate
  - Freedom to furnish or decorate
- People must have a key to their home and room
  - Only appropriate staff have the same key (not **all**)
- People must have access to food at all times
- People must be able to have visitors at any time
- The setting is physically accessible to the person
- People have the freedom and support to control own schedules and activities



**So where are we with this?**

# Statewide Transition Plan Update

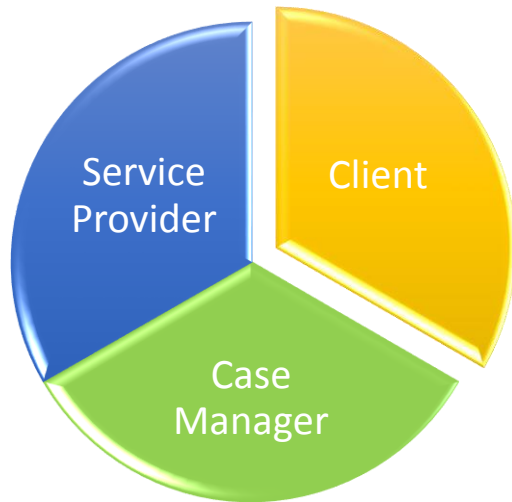


# Person-centered planning

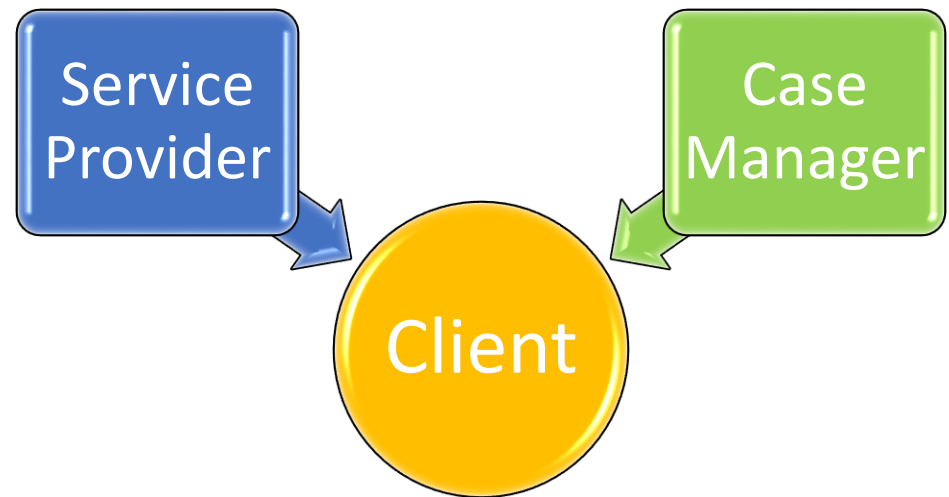
- Policies revised
- Training needs to happen next
  - DDSN – provider network
  - CLTC contract case managers
- Person-centered planning workgroup
  - Future work on:
    - Web resources for waiver participants, families, providers
    - Training/education/outreach opportunities
    - Quality of life measures for waivers

# Conflict-Free Case Management

Current System



New System



# Conflict-Free Case Management

- Individual Choice Model

- Providers can still provide case management and direct services
- Beneficiaries must choose a different provider for case management and a different provider for their services
  - Providers will have 3 years to transition current beneficiaries receiving both from one entity to new providers

***No dates have been selected for when implementation will begin***

Waiver	Number of Participants Effected
Community Supports	1762
HASCI	31
ID/RD	3849
Total Beneficiaries	5642

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<sup>[1]</sup> Numbers of beneficiaries receiving case management and HCB services from the same provider; received from SCDDSN on August 2, 2017.

# Settings Assessments

Where are we?



# Settings Assessments

- DDSN network of providers
  - DHHS contracted with PCG to conduct site visits
  - Total of 1122 done
    - February – October 2017

Setting type	Number completed
Non-residential/day settings	88
CRCF	49
CTH II	734
CTH I	138
SLP II*	56
SLP I*	57
<b>TOTAL</b>	<b>1122</b>

# General Observations

## Observations From Interviews with Provider Staff in both Residential and Non-Residential Settings

### Areas of Note

- Staff who participated in the interviews were for the most part well prepared and had some familiarity with the questions that were asked. Some however, often due to limited time working at the setting had very limited knowledge of the settings practices. In the CTH I model, the home provider often stated that the setting was their home and the waiver participant followed their rules, and expectations.
- Some settings were very innovative and focused on community integration.
- In the interviews conducted, PCG also identified some specific areas where opportunities exist for improvement.
  - Staff do not use person first/respectful language-staff are not derogatory toward the waiver participants but people are often referred to as residents or identified as “low functioning, severe” and staff refer to themselves as caregivers.
  - Waiver participants are “allowed or permitted” to do things, not supported to learn and develop skills for independence.
  - Focus was often on care, not skill development, example: staff cook and grocery shop.
  - Activities that are agency originated (dances, clubs etc.) were considered to be community integration.
  - Agency based activities and materials used are not always age appropriate (proms are held, special clubs organized).
  - Development of communication skills for people with limited or no verbal skills were very limited.
  - The Service Plan is not seen as a useful/guiding document.

# Settings Assessments

- Adult Day Health Care settings
  - 81 total
  - 55 visits completed
- General Observations
  - Need to have process for person-centered plan of care
  - Need to revitalize their programming
    - Participant input on activities
    - Community integration
- ADHC Compliance deadline still December 31, 2018

# Next Steps

- Finish Assessments and Update STP
  - Submit to CMS for Final Approval
- Systemic changes (policies, etc):
  - All completed?
- Settings changes
  - Action plans in place for compliance
  - Monitoring of progress
  - Ongoing compliance steps
  - Introduce quality measures?

# Comments or Questions?

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SCDHHS HCBS Website:

<https://msp.scdhhs.gov/hcbs/>

